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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10 088,153	03 13 2002	Hisahiko Fukase	29305-68561	9936

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Barnes & Thornburg
11 South Meridian Street
Indianapolis, IN 46204

EXAMINER

TRAN, LEN

ART UNIT PAPER NUMBER

1725

DATE MAILED: 03 13 2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,153

Applicant(s)

FUKASE ET AL.

Examiner

Len Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 13 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,397,924 in view of JP 55-165260.

US '924 discloses the method of casting metal strip comprising the steps of holding a pair of chilled casting rolls, biasing one roll laterally towards the other roll, pouring molten metal in the nip, by setting the initial gap between the rolls at the nip which is less than the thickness of the strip to be cast, and gradually increase the roll gap to accommodate the thickness of the initially cast strip. A stop mean is introduced to limit bodily movement of the rolls.

US '924 fail to teach spacing between the end parts of the rollers to be in the range of 0.1 to 1.5 mm.

However, JP '260 discloses the negative crown spacing being 0.3 mm to accommodate thermal expansion.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to provide spacing at 0.3 mm as taught by JP '260, in US '924 in order to accommodate thermal expansion while casting.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 5-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 903 190, and further in view of JP 59215257.

EP '190 discloses the apparatus for strip casting comprising a pair of rollers, wherein one roller is held against lateral bodily movement, the other is mounted on a pair of moveable roll

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carriers which allow one roll to move bodily laterally of the other roll and one roll is continuously biased laterally toward the other roll by application of biasing forces to the moveable roll carriers. A stop means is a stop which is set so as to be engaged by one or both of the moveable roll carriers (col. 6- col. 7).

EP '190 discloses the claimed invention above, but fails to teach setting an initial gap between the rolls at the nip which is less than the thickness of the strip to be cast, and then increase the gap between the rolls to accommodate the thickness of the initially cast strip.

JP '257 discloses the method of strip casting by setting an initial gap between the rolls at the nip which is less than the thickness of the strip to be cast, and then increase the gap between the rolls to accommodate the thickness of the initially cast strip for the purpose of permitting an easy startup.

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have initial gap smaller than the desired cast thickness as taught by JP '257, in EP '190 in order to permit easy startup.

6. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 903 190, in view of JP 59215257, and in view of JP 55-165260.

EP '190 and JP '257 disclose the claimed invention above in paragraph 5, but fail to teach spacing between the end parts of the rollers to be in the range of 0.1 to 1.5 mm.

However, JP '260 discloses the negative crown spacing being 0.3 mm to accommodate thermal expansion.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to provide spacing at 0.3 mm as taught by JP '260, in US '924 in order to accommodate thermal expansion while casting.

Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Len Tran whose telephone number is (703)605-1175. The examiner can normally be reached on M-F, 8:30 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 703-308-3318. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3602 for regular communications and (703)305-3602 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

Len Tran
Examiner
Art Unit 1725

LT
February 27, 2003